

IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 21040 OF 2007

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Dated : October 5, 2007

Between:

B.Rajarithnam and others

Petitioners

AND

The District Educational Officer,
Ananthapur and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI
AND
THE HON'BLE MR. JUSTICE G.CHANDRAIAH

WRIT PETITION NO. 21040 OF 2007

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ORAL ORDER: (per **THE HON'BLE MRS. JUSTICE T.MEENA KUMARI**)

Seeking a writ of certiorari to call for the records relating to the order, dated 01.05.2007 passed in O.A. No. 2947 of 2003 on the file of the Andhra Pradesh

Administrative Tribunal, Hyderabad and to quash the same, the petitioners filed this writ petition.

The petitioners herein filed the above O.A. before the Tribunal assailing inaction on the parts of the respondents in regularising their services from 1.9.1985 instead of October, 1987 and not granting the consequential benefits to them, as illegal, arbitrary and contrary to Rules. The petitioners were appointed as Physical Education Teachers in the year 1985, after undergoing regular selection process and the posts against which they were recruited, were admitted to grant-in-aid vide GO Ms. No. 52 Education Department dated 23.2.1987 with effect from 1.9.1985, in Zilla Parishad High Schools. It is their case that though the posts were admitted to grant-in-aid with effect from 1.9.1985 and financial sanction was also accorded by the Government for the purpose of drawing regular scale of pay, the respondents 1 and 3, who are Unit Officers, have not taken any action to regularise services of the petitioners with effect from 1.9.1985. It is further averred that the 3rd respondent issued Proceedings Rc. No.2701/83-05 dated 24.10.1987 absorbing the petitioners as regular Physical Education Teachers and posted them to various Zilla Parishad Schools with regular pay scales with effect from the date of the said order, instead of appointing them as Regular Physical Education Teachers on the day on

which the said posts were admitted to grant-in-aid viz., from 1.9.1985, thereby they were put to loss of two years of regular service besides monetary loss. It is further averred that this action of the respondents is contrary to GO Rt. No. 144 dated 4.11.2000, whereunder financial benefits were sanctioned pursuant to the directions of this Court and the Apex Court relating to certain other schools that were admitted to grant-in-aid. It is their further case that though the 3rd respondent has sought clarification in respect of the grievance of the petitioners from the 2nd respondent, no orders are issued. Hence, they filed the O.A.

The Tribunal, after elaborate consideration of the issue, dismissed the O.A. holding that the challenge of the petitioners in respect of their absorption and regularisation issued on 24.7.1987 is hopelessly barred by time and that the reliance sought to be placed by the petitioners on GO Rt. No. 144 Education Department Dated 4.11.2000, cannot be sustained, inasmuch as the orders were issued in respect of the schools in private sector, which were admitted to grant-in-aid. Hence, the writ petition.

Learned counsel for the petitioners herein contended that GO Rt. No. 144 Education Department dated 4.11.2000 extended the benefits to certain other schools and the cases of the petitioners is akin and, therefore, the said G.O. is applicable to the case of the

petitioners. The learned counsel would further contend that as on the date of issuance of G.O. Ms. No. 52 dated 23.2.1987, the petitioners were very much in service and the posts against which they were appointed, were admitted to grant-in-aid and, therefore, they are entitled to the benefit under GO Rt. No. 144 Education (PS-2) Department dated 4.11.2000. It is further contended that since the said benefit was not accorded to them, they have made several representations, which were neither rejected nor considered, as such, they were constrained to file the O.A.

Admittedly, no counter was filed before the Tribunal. The only ground urged before the Tribunal was that the relief sought for is hopelessly time barred apart from the contention that the petitioners did not state that they were working prior to the date of absorption against the specific posts which were admitted to grant-in-aid.

Having regard to these circumstances and particularly having regard to the fact that the O.A. was dismissed even before filing of the counter affidavit, we deem it expedient to set aside the impugned order, without delving on merits of the contentions raised by the learned counsel for the petitioners herein. Accordingly, the Writ Petition is allowed setting aside the impugned order and the matter is remanded to the Tribunal for consideration afresh after giving opportunity to the

respondents to file their counter affidavit. The respondents are directed to file counter affidavit within a period of four weeks from the date of receipt of a copy of this order and the Tribunal, in turn, is directed to dispose of the O.A. within a period of three months therefrom. No order as to costs.

T.MEENA KUMARI, J.

G.CHANDRAIAH, J.

October 5, 2007
MAS